

MATTER OF AGUIRRE  
In Deportation Proceedings

A-13680541

*Decided by Board February 3, 1971*

A special inquiry officer must make an independent exercise of discretion on all the facts present; the fact that section 245 adjustment of status has been granted to aliens with spouses and children in prior cases is not controlling.

CHARGE:

Order: Act of 1952—Section 241(a)(2) [8 U.S.C. 1251(a)(2)]—Remained longer—student

ON BEHALF OF RESPONDENTS:

M. Ronald Gould, Esquire  
501 Madison Avenue  
New York, New York 10022

ON BEHALF OF SERVICE:

Irving A. Appleman  
Appellate Trial Attorney  
Stephen M. Suffin  
Trial Attorney  
(Brief filed)

The Immigration and Naturalization Service appeals from the decision and order of the special inquiry officer dated January 7, 1970 granting the respondent's application for status as a permanent resident alien pursuant to section 245 of the Immigration and Nationality Act. Exceptions have been taken to the grant of relief.

The respondent, a native and citizen of the Republic of the Philippines, was admitted to the United States at the port of Honolulu, Hawaii, on or about July 4, 1962 as a nonimmigrant visitor. His status was thereafter changed to that of a nonimmigrant student and he was authorized to remain in the United States until June 27, 1968. He concedes that he is deportable as charged in the order to show cause.

The special inquiry officer in a decision and order entered on October 14, 1969, found the respondent deportable as charged in the order to show cause, denied his application for suspension of deportation and ordered his deportation to the Republic of the